

**WARRICK COUNTY AREA PLAN COMMISSION**

Regular meeting held in Commissioners Meeting Room,  
Third Floor, Historic Court House,  
Boonville, IN  
Monday, April 9, 2018, 6:00 PM

**PLEDGE OF ALLEGIANCE:** A moment of silence was held followed by the Pledge of Allegiance.

**MEMBERS PRESENT:** Guy Gentry, President; Bill Byers, Amanda Mosiman, Doris Horn, and Jeff Willis.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director, Molly Barnhill, and Kim Kaiser staff.

**MEMBERS ABSENT:** Bob Johnson and David Hachmeister

**MINUTES:** Upon a motion by Doris Horn and seconded by Bill Byers the Minutes from the regular meeting held February 12, 2018 and no meeting on March 12, 2018 were approved as circulated.

The President explained the Rules of Procedure to the audience.

**REZONING PETITIONS:**

**PC-R-18-03 Petition of Roberts Investment Holdings by Clint Roberts, Pres. OWNER: Towhee Corporation by Bruce H. Baker, Treas.** To rezone 2.0 acres located on the N side of SR 62 approximately 150 E of the intersection of Birkshire Dr. and SR 62. (5766 SR 62.) from "A" Agriculture to "C-4" General Commercial with a Use and Development Commitment, Boon Twp. *Complete legal on file. (Advertised in the Standard March 29, 2018)*

Clint Roberts and Jim Morley Jr, Morley Project Engineer, were present.

The President called for a staff report.

Mrs. Rector stated we do have all of the pay receipts to the adjacent property owners except for one which was mailed to the wrong address, however they did obtain a waiver of notice for this meeting. She said Roberts Investment Holdings is now the owner of the property and not Towhee Corporation. She said there is no minimum lot size for C-4 and the Comprehensive plan has no projection for this area. She stated the existing land use is vacant. She said the surrounding zoning and land use to the north is agricultural and vacant fields and the rest of the adjacent properties are in the town limits of Chandler. She stated the intent of this rezoning is for the adjacent property owner to the west to purchase the property and use it as additional acreage for his landscaping business. She said the flood plain is an "X" which is no flood plain. She said the access is on State Rd. 62 and the stated future use is a landscaping business which

would be in compliance for the “C-4” zoning. She stated they have submitted a Use and Development Commitment which restricts the property to all “C-4” uses allowed in Comprehensive Zoning Ordinance for Warrick County, Indiana except for the permitted uses of taverns, bars, nightclubs, restaurants that serve alcoholic beverages consumed on premises, and package liquor stores. She said the application is in order.

The President asked if there was anything to add to the staff report.

Jim Morley Jr. replied I have an exhibit that shows the piece of ground we are rezoning and Mr. Roberts existing business next door. He said this rezoning will allow him to expand his business that is good because business is flourishing in Warrick County.

The President asked no new access just strictly from his business over to it.

Jim Morley Jr. responded yes sir.

Amanda Mosiman asked if there was anything new that would need to be built on the new site.

Jim Morley Jr. replied there may be another building that goes up at some time, Mr. Roberts owns Super Cutz lawn care service, but at this time it needs “C-4” zoning for him to do anything over there which is why we are trying to rezone it now.

Ascertaining there were no questions from the Board and no remonstrators the President called for a motion.

Bill Byers made a motion for a positive recommendation to the County Commissioners for PC-R-18-03. The motion was seconded by Jeff Willis and unanimously carried.

The President said this will go to the Commissioners meeting on May 14, 2018.

**PC-R-18-04 Petition of Maken Corporation by Daniel Ubelhor, Pres. OWNER: Same** To rezone 18.27 acres located on the N side of Oak Grove Rd 0’ NW of the intersection formed by Oak Grove Rd. and Roslin Rd. from “M-2” General Industrial to “PUD/R-1” Planned Unit Development with One Family Dwelling. Boon Twp. *Complete legal on file (Advertised in the Standard on March 29, 2018)*

The President stated that also going with this rezoning is a primary plat.

**PP-18-02 Eastwick at Berkshire by Maken Corporation by Daniel Ubelhor, Pres.** 18.27 acres located on the N side of Oak Grove Rd. 0’ NW of the intersection formed by Oak Grove Rd. and Roslin Rd. Boon Twp. *Complete legal on file. (Advertised in the Standard March 29, 2018)*

Daniel Ubelhor and Jim Morley Jr. are present.

The President called for a staff report for the rezoning.

Mrs. Rector stated we have all of the green cards back except for three from Milestone Properties LLC, Evansville Propstone LLC, and Roslin Road Development, however they were all mailed within the twenty-one-day period and to the correct addresses. She said the primary plat and the rezoning were certified they were mailed together giving notice of this meeting on both applications. She said the lot size on "R-1" has a minimum lot size of six thousand square foot and a minimum width of sixty feet, however the PUD relaxes those requirements. She stated the Comprehensive Plan has no projection for this area. She said the existing land use is vacant and the surrounding properties to the west, north, and south are zoned "M-2" and are vacant. She said the properties to the east are zoned "M-2" with various businesses and there are some properties to the south that are zoned "A" and are vacant. She stated they have submitted a primary plat to go with this rezoning. She stated the flood plain was "X", the access will be Oak Grove Rd., and the stated use is a residential subdivision which would be allowed in the "PUD/R-1" zoning. The plat will be subject to the rezoning being approved by the Warrick County Commissioners before any final plat could be recorded. She stated it is a seventy-four lot subdivision with one outlet. She said the Warrick County Commissioners approved the street construction plans today with no improvements to Oak Grove Rd. and the Warrick County Drainage Board approved the drainage plans. She stated Newburgh Sewer has capacity for sewer and Indiana American has capacity for water. This is a proposed residential subdivision and the lot size meets the ordinances required. She said six thousand square feet with the PUD is relaxing the lot width from sixty feet to fifty feet on a large portion and five-foot side yards instead of six feet. She stated they are also requesting five feet drainage easements on some lots, total width of these easements will be ten feet but they will straddle the lot lines so there will be five feet on each lot instead of six feet with a twelve-foot total which was approved by the Drainage Board. She said the primary plat is in technical conformity to the subdivision control ordinance.

The President asked for questions from the Board members.

Doris Horn asked if there was only going to be one outlet.

Jim Morley Jr. replied no there are two planned to Oak Grove Rd.

The President stated both have the same name.

Doris Horn said ok she sees it now.

Jim Morley Jr. stated it is kind of a big loop, coming in one entrance and out the other.

Amanda Mosiman asked what some of the businesses are on the back side of the proposed subdivision. She said some of them that are already in the "M-2" zoning.

Jim Morley Jr. replied Brentwood Springs.

Amanda Mosiman said Brentwood Meadows, she is familiar with that one.

Mrs. Rector stated the others are just warehouses people own for personal use.

The President stated that there is no access off of Oak Grove Rd. for them.

Amanda Mosiman replied they are off of Roslin Rd.

Jim Morley Jr. stated this subdivision does not tie into Roslin Rd. and this ground is currently zoned manufacturing, so it is a down zoning from manufacturing to residential.

Amanda Mosiman stated her concern was there is still quite a bit of "M" zoning around there right now.

Mrs. Rector asked Mr. Ubelhor if their intention was to follow through with the residential clear through.

Amanda Mosiman replied she sees now that they own quite a few of the properties.

Jim Morley Jr. stated that is a pretty high demand through there for residential now.

Ascertaining there were no more questions the President called for a motion.

Mrs. Rector stated remember the plat would be subject to the rezoning being approved by the commissioners.

Morrie Doll stated it will be two separate votes.

The President remarked there will be two votes starting with the rezoning.

Jeff Willis made a motion of positive recommendation to the Warrick County Commissioners for PC-R-18-04. The motion was seconded by Doris Horn and unanimously carried.

The President stated we are now looking at the primary plat being contingent on the rezoning being approved by the Commissioners.

Amanda Mosiman made a motion to approve PP-18-02 based on the condition of approval of the rezoning by the Commissioners. The motion was seconded by Doris Horn and unanimously carried.

The President said the rezoning will go to the Commissioners meeting on May 14, 2018.

**PC-R-18-05 Petition of SMI RV Parts & Accessories Inc. by Pete Schuck, Pres.** To rezone 1.15 acres located on the W side of SR 66 approximately 250' N of the intersection formed by Loehr Rd. and SR 66 from "A" Agricultural to "C-3" Highway Commercial Zoning District. Ohio Twp. *Complete legal on file. (Advertised in the Standard March 29, 2018)*

Pete Schuck and Jim Morley Jr. are present.

The President called for a staff report.

Mrs. Rector stated we have all of the return receipts for the certified mail except for Michael Bryan but we do have the white pay receipt showing it was mailed correctly. There is no minimum lot size for this particular zoning and the comprehensive plan projects the area to be commercial. She said the existing use is vacant and the property to the east is zoned "M-1" Light Industrial for a storage facility. She stated the property to the west is zoned "R-2B" multiple family apartment district and has apartment buildings. She said the property to the north is zoned "C-4" General Commercial and has a small business and the property to the south is zoned "C-3" Highway Commercial and is the location of the SMI RV Parts & Accessories. She said the intent of this rezoning is to allow the owner to use the property as part of his business which is the adjacent property to the south. She said there is no flood plain and they have access to State Rd. 66 through the adjacent lot. She stated any new entrances would have to be approved by INDOT. She said the stated use is allowed and the application is in order.

The President asked if there was anything to add to the staff report.

Jim Morley Jr. replied that business is good in Warrick County and they need to expand.

The President asked for any questions from the Board members.

The President stated he sees on the drawing a proposed building.

Jim Morley Jr. replied that is one of the plans being considered.

The President asked but nothing is concrete.

Jim Morley Jr replied no we would still have to go to a site review on the building.

Ascertaining there were no remonstrators and no more questions the President called for a motion.

Doris Horn made a motion of approval for the Commissioners for PC-R-18-05. The motion was seconded by Jeff Willis and unanimously carried.

The President said this will go to the Warrick County Commissioners meeting on May 14, 2018.

The President stated we were going to jump around and he apologized but he was anticipating a little more time on the next item on the agenda so they are going to move to the final item and get it out of the way instead of having them wait.

**PP-18-01 – Engelbrecht Place Sec. II Phase V by GNE LLC, Pawn Sooch, Mng Mbr.** 1.73 acres located on the NW side of SR 261 approximately 0' N of the intersection formed by

Peachwood Dr. & SR 261, Ohio Twp. Lot 5 in Engelbrecht Place Sec. II Phase III (*Advertised in The Standard March 29, 2018*)

Pawn Sooch, Mng. Mbr. GNE LLC and Jim Biggerstaff from Utilities Consulting were present. The President called for a staff report.

Mrs. Rector stated we have all of the return receipts except three from GNE LLC, CJIA LLC, and PPS Enterprises LLC but we have all of the white pay receipts showing they were mailed correctly. She said the zoning for this lot is "C-4" General Commercial and there is no flood plain. She stated they are dividing Lot 5 in Engelbrecht Place Sec II Phase III into three commercial lots. She said the Commissioners have approved there would be no improvements required to Park Place Dr. and the Drainage Board approved that no further drainage plans were required. She said Newburgh has capacity for sewer and the Town of Chandler had lines in place and ready for connection for water. She said as stated it is a three lot commercial subdivision and is in technical conformity with the subdivision ordinance.

Amanda Mosiman asked why it was being made into three lots instead of one.

Jim Biggerstaff replied they are building office buildings and other buildings for lease and it would make the building pretty long and there is a big drainage easement that runs through the middle of the lot which is primarily why they are breaking it into three lots.

Ascertaining there were no remonstrators or other questions from the Board the President called for a motion.

Doris Horn made a motion to approve PP-18-01. The motion was seconded by Bill Byers and unanimously carried.

**PC-R-18-06 Petition of Chris A and Alicia Gilkey by Chris Gilkey.** To rezone 1.41 acres on the W side of SR 261, a distance of 0' NW of the intersection formed by SR 261 & Vann Rd from 'R-O' Residential Office & "R-1A" One Family Dwelling to "C-1" Neighborhood Commercial zoning district, Ohio Twp. *Complete legal on file. (Advertised in the Standard March 29, 2018)*

The President stated that also going with this rezoning is a primary plat.

**PP-18-03 ADIO Subdivision by Chris & Alicia Gilkey.** 1.41 acres located on the W side of SR 261 approximately 0' NW of the intersection formed by SR 261 & Vann Road. Ohio Twp. *Complete legal on file. (Advertised in The Standard March 29, 2018)*

Chris & Alicia Gilkey, owners and Jim Morley Jr., Morley Project Engineer were present.

The President called for a staff report.

Mrs. Rector stated we have all of the return receipts except one from Abdul Samee & Fattma Mohammed but we have the white pay receipt and it was mailed correctly. She said there is no minimum lot size for commercial zoning. She said the Comprehensive Zoning Ordinance projects for this area to be moderate to hard density residential. She said the existing use is vacant. She stated the properties to the north, west, and south are zoned "R-1A" one family dwelling between Old Hickory Subdivision and the property to the east is zoned agricultural, being Castle High School. She said in 2014 you were allowed to have medical office buildings, clinics, etcetera in a "R-O"; zoning, the Planning Commission did change that in 2016 to the "C-1" neighborhood commercial. She stated that Mr. Gilkey had rezoned it previously for the office building which was allowed in a "R-O". She stated there is no flood plain on the property. She said regarding the street access they have to obtain approval from INDOT to access State Rd. 261. She said the stated use is commercial which will be allowed. She said they have submitted a use and development commitment which would limit the property to the following: single family dwellings, up to four-unit independent dwelling units, professional offices for the conduct of real estate, mortgages, financing, insurance, architects, attorneys, accountants, tax consultants, engineers, medical, optometry, dental including clinics, mixed use buildings to include commercial, office and residential (commercial and office only to include those uses noted above), accessory uses which are incidental to and maintained on the same lot in common which are associated with the operations of the permitted uses. These are the uses that were previously all allowed in the "R-O" zoning.

Mrs. Rector stated they have submitted a primary plat for this property which is also on the agenda tonight. She said we have received several emails of remonstrance which she has emailed to all of you before this meeting as soon as we received them and she does have copy of them all and a couple of extra copies if any of you need to review them further and they will be included in the record. She said the rezoning application is in order.

Mrs. Rector stated for the primary plat we do have all of the return receipts, they were all mailed together the rezoning and the primary plats. She said they were mailed out within the twenty-one-day time period. She said the property is currently zoned "R-1A" one family dwelling and "R-O" residential office. She said they have filed the petition to change the zoning to "C-1" neighborhood commercial with a use and development commitment. She stated there is no flood plain and they are proposing two lots. She said they are proposing a shared entrance on State Rd. 261 that lines up directly with Vann Rd. and they will need a commercial driveway permit from INDOT for this. She said they are working with INDOT on a traffic signal modification along with an easement given to INDOT to maintain the signal loops. She said there will also be a reconfiguration of the turn lanes, so this will be made into a four way stop light with a left turn lane in. She stated Newburgh sewer has capacity and Indiana American Water has capacity. She said it is a two lot commercial subdivision, it is subject to an easement being placed on the final plat for INDOT to maintain the loop for the traffic signal. She states she also suggests that the plat be approved subject to all INDOT approvals prior to any final plat being approved and recorded. She stated the plat is in technical conformity to the Subdivision Ordinance. She added the drainage plans were approved by the Drainage Board this afternoon.

The President asked if there was anything to add to the staff report.

Jim Morley Jr. replied as Mrs. Rector mentioned basically we are rezoning to get back to where we were. He added it was rezoned in 2014 to a "R-O" then in 2016 the ordinance changed and the purpose was for a medical office in 2014 which is why it was rezoned to "R-O" and in 2016 the code was changed to delete medical and clinics. He said we are attempting to rezone to get back to where we were in 2014. He said the property sits along State Rd. 261 and the traffic count in that area is around 15,000 cars a day. He stated this property when Old Hickory was platted, the subdivision was platted around this piece for lack of better terms leaves an odd man out. He said this is only a couple of acres and is ideally set up for a small commercial facility at the intersection of State Rd. 261 and Vann Rd. He added the best way to enter the piece of property would be to do a common shared drive at the signal which would be better for traffic flow and safety. He said you will notice and the exhibit he handed out there is currently an entrance at the far northern edge of the property but to utilize that existing entrance you would have to make a left hand turn across three lanes of traffic and we felt like it would be a better idea to move that entrance to the stop light. He said we have contacted INDOT about that and now we have to go through the process of a filing a traffic impact study, signal plans, commercial driveway which INDOT will have to study and they have licensed engineers who will review what we submit and those approvals will have to come before the plat can be recorded. He stated he spoke with Mrs. Rector earlier and agrees with that condition on the plat because the plat is setup to utilize that INDOT entrance. He said this is a great use for the piece of property, Mr. Gilkey plans on having his office there and he has a lot of clients in this immediate area with a lot of clients at the school across the street. He said he does a lot of work with the staff and students there and he has the desire to open up a very nice clinic. He stated the property is ideally situated with the busy intersection and 15,000 cars a day passing in front of it so we feel like it is a good use of property and again we are just trying to get back what we had which was approved unanimously in 2014. He stated Mr. Gilkey was unaware an ordinance came along since then that took that away or he would have come and remonstrated against the passing of that ordinance because it took his ability away.

The President asked for any questions from the Board members.

Mrs. Rector asked if this is approved are you going to eliminate the road cut that is existing now.

Jim Morley Jr. replied yes we have put that on our civil plans it shows taking out the exiting gravel drive and the new entrance would be down at the signalized intersection. He added by all means it was not the cheaper route to go but the better route to go.

Ascertaining no more questions from the Board the President asked if there are any remonstrators and if so to step to the podium and state your name.

Richard Reid at 7677 Hillsboro Dr. and he is a resident of Old Hickory Estates. He said he opposes this rezoning because it would be spot zoning and the next one would be the negative impact on those properties surrounding that property at Old Hickory and some of the outlying areas of that area too. He said the third thing would be the drainage and the fourth would be the traffic. He said now he will address each one of those areas for you. He said the spot zoning if you look at your maps from zoning and look at the area from the highway up to Vann Rd. it is all

commercial which is good and then from Vann Rd. to Oak Grove Rd. is all residential and agricultural so if you put a wedge in there it is going to be spot zoning. He added from Oak Grove Rd. from up north there is a hodge podge of things but most of that has been there from years ago, decades ago and they have commercial, industrial, agricultural, and residential so it is very important not to have spot zoning because the next guy is going to come and say well he has it so I get it so we don't want to have spot zoning in our neighborhood. He said he thinks spot zoning is a bad thing to do in our neighborhood and I think some of you have been on the Board here for four years and I have always supported growth but I never supported anything that would have spot zoning and so I think that would be a bad decision to do that and I also did not vote for anything that would negatively impact other citizens by the benefit of one other person on rezoning.

Richard Reid said the second part was you have all known me as a commissioner but I've been working as a real estate appraiser for forty-four years and I'm an expert on evaluation of property values in Warrick County and it will affect the values of those properties surrounding that area and even maybe a block away. He said there are problems with commercial properties like that because you have lighting, noise from the parking and people hanging out in the parking lots afterwards so we don't want to see that at all.

Richard Reid said the third thing would be the drainage, he knows the Drainage Board says there is no problem but they will always tell you that too. He stated where Old Hickory has always been on the edge of having problems through the thirty years he has been there and he thinks right now it is satisfactory and ok but we still have drainage problems in there and when you start putting asphalt over that area and then square footage of the roof and it is all flooding back into their neighborhood and it is going to cause more trouble and it will be more work for the Drainage Board to get back in there and work again which we shouldn't have to do.

Richard Reid said the fourth thing would be the traffic by the schools. He stated it is bad out there around school time when they come and leave so he doesn't think this is a wise decision to have this in their neighborhood.

Richard Reid stated in conclusion he thinks those four points are very important especially the spot zoning and decrease of the market value of those properties so he asks you to please consider those things and vote no, I know that the final decision is not yours but he thinks the Commissioners do listen to what you recommend so I certainly ask for you to vote no on that, thanks.

The President asked if there were any other remonstrators present.

Fred Murphy stated he lives at 7555 Chapel Hill Ct. and stated he will be brief but has a little bit of history. He said he is here to represent the six properties that border the property that Mr. Gilkey wants to rezone to "C-1", he will just read it. He said his wife, Claudia, and he bought the lot in Old Hickory Subdivision in 1992 and were told by the developer, Roy Foster, that the "R-O" and "R-1A" property that Mr. Gilkey owns now, approximately  $\frac{3}{4}$  of an acre, north of the Montgomery homestead was to be developed as tennis courts and possibly a club house. He said

they built their house in 1995 and around a year later we got a newspaper report that Mr. Foster was giving that land to the county to put an EMT station on. He stated well that never happened, but Mitchell Sears bought the property from Mr. Foster and Mr. Sears passed away and Dan Hardesty bought the property and that is when we met Mr. Gilkey. He said Mr. Gilkey told them he didn't need all of the property so he bought some and Amir Badreddine bought some and the property was parceled three ways. He said at the time Mr. Gilkey said and we knew he wanted to put his office there with the "R-O" zoning and we were all in agreement with that because the "R-O" zoning would not affect the property values of Old Hickory. He said we are here to oppose this rezoning today because it will devalue the properties around it and subsequently the whole subdivision. He stated a petition was passed throughout the subdivision of people who oppose this and there are 230 homes in Old Hickory and over 200 homes petition against that. He said we are here today, nothing personal against Mr. Gilkey, I know he wants his business there but we can't allow his dream to cause our dream to be a nightmare. He stated a lot of these families have invested a lot of money and Old Hickory is a well-established neighborhood and now to have this as a "C-1" in our backyard and all of those homes that border there and especially on Hillsboro, Pine Ridge and all of them and that is the problem we have with this. He said we are asking for you not to approve this for that reason of property values. He said he knows that Mr. Morley stood today and said that the drainage problem will be eliminated and he is sure with enough money and time it will be eliminated but in the meantime the people on Crossgate, Pine Ridge, Hillsboro are going to suffer if it doesn't work because of the runoff so we are saying no. He said the citizens of Old Hickory have signed a petition and they are asking do not approve this thank you.

The President asked for any other remonstrators.

Charles Vendetti at 3411 Pine Ridge Dr. in Newburgh stated he would also like to talk a few minutes about the financial hit to the property values, my property values. He said he spent a little time looking at the tax assessments on the homes in Old Hickory. He stated he pulled the tax bills for last year for sixty homes in their neighborhood so that is about a quarter and giving the time that they had felt that was a fair representation of the taxes the neighborhood contributes to Warrick County. He said the taxes from their neighborhood alone make up more than 1 ½ percent of the taxes of Warrick County's operating budget. He stated so we talk about tight budgets and I heard it in the Drainage Board meeting on how we all have to make a dollar stretch because everybody is on a tight budget. He said when you hit my home value by changing this zoning you are also going to hit your budget and the rough estimate that he came up with is every dollar that my home goes down is a dollar out of the tax that comes from our neighborhood into the Warrick County budget. He said so it is not just us but the entire community that is concerned about this. He said that tax gets reinvested to make Warrick County a great place to live and work. He added not only does my home value go down but we have less tax money to pour back into the community to do further development. He said other than that we have concerns on what the business brings into our neighborhood. He stated he has four children, three girls and a boy, and they love being outside but with a business operating 100 yards from my house from 8:30 a.m. to 8:00 p.m. he is concerned with what that business is going to bring into my neighborhood and whether my children can be outside or not. He said he is concerned about the impact he is going to have on the quality of life of my family, and I understand and

appreciate that Mr. Gilkey runs a very good business and has a great reputation in the community but we believe that this is not the right place for his business to relocate. He said there are a lot of other suitable options right in the immediate area but not this particular location. He added we have all of the property going down towards the new hospitals that are being built, we have down by Donut Bank that are suitable options, there are properties going out Vann Rd. that are suitable options so I don't understand why we have to use this property that backs up to our subdivision to fulfill Dr. Gilkey's dream and impacts the dream the rest of us have been living for the time that we have been in our homes, thank you.

The President asks if there are any other remonstrators.

Donna Lakey, 7699 Liberty Ct. in Old Hickory states she represents the residents, herself as a homeowner, and also the Old Hickory Homeowners Association Board. She knows you have advised them not to be redundant on things that have been previously discussed but it is really difficult to express the importance of all of these things without touching on them again. She said the rezoning is really critical to Old Hickory what the impact is going to have on the values of homes, the water, irrespective of what we have been told about how much of an impact the new drainage system is going to work we don't really know that we can't see into the future on that.

Donna Lakey stated she has lived in Old Hickory long enough that she has seen water enter people's garages and I have had it come to my garage door and I have seen it run down the streets to where it was up to the bottom of a car in different locations. She said water follows gravity it is going to be there so it is also hard to think that it is not going to seep into the ground and yards whose people's yards bound the proposed rezoning area and again none of us are against the proposed zoning petitioners we just want real strong consideration to be given to the quality of life that people have in Old Hickory.

Donna Lakey stated we don't think we are any more special than anybody but when we bought homes there we did it for a reason. She said it is close to our churches, it's close to our schools, it's close to our medical facilities and we would like for it to stay that way. She said another real important thing that has not been addressed here she understands the count of vehicles is 15,000 but she doesn't know if any of you have been to Castle and in that area when school is starting or when school is ending but most of us who live in that area avoid it unless we are picking up or dropping off a child. She said everyone is racing to get out of the parking lot, tires are skidding, they are changing lanes, and that is from up from the elementary school all the way down to SR 66. She said she really meant to check this out with the Sheriff's Department to see if she could actually learn how many accidents there are in a week time. She said there are a lot, some not serious, but we don't know what is going to happen and we are talking about putting a business in there now with a stop light in four different directions and putting another turn lane in there. She said you are not only going to have young and inexperienced drivers but you are also going to have a lot of older people turning into that facility. She said you know that is something to think about.

Donna Lakey stated there are other suitable locations for this certainly more appropriate. She stated one of the things that Warrick County has is the Warrick County Wellness Trail. She said our tiff dollars, tax instead of financing, have already gone there why are we double taxing on that now, why is this not being used for a place. She said I know it is not right in Castle's front door but it is very convenient, it is not just convenient for students to get there it is also convenient for other patients and it is already set up for this type of facility. She said if she was doing this on her own she would be looking to maximize all of my opportunities and she does think what we are talking about doing is putting ten pounds in a five-pound bag in that one location. She said we are talking about putting a lot of building in that location, we are talking about paving it, we are talking about roof lines and you are not going to be able to control the water. She said she asks you to give strong consideration to this, thank you.

The President said there is about two minutes left if there are any other remonstrators to step forward please.

Glea McBride, 3444 Pine Ridge states over 200 foot of his backyard borders Mr. & Mrs. Gilkey's property. He said we do not like the idea of walking out the back door and looking at two large buildings just beyond our fence. He stated he will agree with the statements earlier, I was here when Mr. Gilkey asked and got a rezoning of "R-O". He said at that time he told us he would install a facility that resembles our houses that would blend in with our houses and he would have his office in that and it would be one building. He stated the ones that were here at that time, that lived in the area around there agreed that was perfectly acceptable. He said what he sees right now and what he understands about what is going on does not resemble what he understood that he wanted to build there. He states a "C-1" a commercial property does not appeal to me and he assumes that it would affect his property.

The President asked for any other remonstrators.

Jane Parker, 7700 Hermitage Ct states she has two children that are in school there, 15,000 vehicles are a lot of vehicles but think of how many school buses are going through there, 40 school buses twice a day and each school bus may contain 20-30 children. She said this is a really dangerous place to put a new business and a new road. She said not only during the school day but after school they have lots of activities, a lot of football games, band concerts, band practice please keep that in mind because she is really worried that something might happen with those inexperienced drivers that go through there, thank you.

Jim Morley Jr. asked if we would consider an extension that Mr. Gilkey has some people who would like to speak on behalf of him in favor of the project and I think you are out of time.

The President stated we are.

Jim Morley Jr. asked if we could do an extension.

The President stated it will be into your ten-minute rebuttal.

Jim Morley Jr. replied he will take it.

Nancy Hall states she is a ten-year resident of Warrick County, twenty-five-year patient of Dr. Gilkey, and considers parking before she goes anywhere. She said she cased the building out to be sure she could get a parking spot out here for handicapped so the issue of parking is a high concern to her. She added it is also a better facility for me because I have therapy there and that is what she is looking for. She said as a resident for twenty-three years we had the Evansville Teachers Credit Union in our back yard when we lived in Evansville. She said when we sold our property I said sell that fast because they are great neighbors, we sit out at night they are gone and they have a beautiful yard, beautiful landscaping so for having a business she would purchase a home in Old Hickory with Gilkey Chiropractic in her backyard because they are going to be gone at night, beautiful landscaping, quiet, she wouldn't have to compete against the neighbors and their kids out there when she is trying to entertain. She said for her she would take Gilkey Chiropractic in her backyard any day as a homeowner because of that fact it will be nice and quiet and private on the weekends and evenings when she is trying to entertain, thank you.

Mike Claypool, a Pastor at Warrick Living Christian Church stated to ask a Pastor to be brief you don't know what you are asking. He said he will do his best. He stated they moved here in 1992 and from 1992 until 2014 he was a Pastor of First Christian Church in Newburgh, so he has known the Gilkey's a long time and he would say to you he is a man of his word and what he puts on paper is what he intends to do and he won't do any more than that. He said from 2006 until 2014, when he parted ways of First Christian, they were neighbors at the building location where we moved into. He said we were hit by the tornado in 2005 built it back up and moved back in in 2006 and he knows he isn't going to be living next door but the care of the property was as good as anyone ever could expect, it will not be an eyesore it will be a business that is highly looked upon in the community. He said his last thought and it may or may not have any impact on your decision but the thousands of people that have been impacted in this community by Dr. Gilkey is incredible and to be able to move him into a place that is in conjunction with many, many students that he is still practice with it is monumental for the school number one and he just highly recommends him, his business, the rezoning, the plat work because of who he is because he was his preacher for a long long, time and he knows who he is and what he says he is going to do he will do and no more than that, thank you. He added that is as brief as he can be.

Glen Miller states they have known Chris for forty plus years. He said we went to high school together, college together, and our kids grew up together, He said he understands homeowners and the concerns that they have. He added they made some very good points tonight. He said he thinks he would like to stress from knowing Chris from high school to college to our kids growing up all that he gives back to the community he does things right. He said not only with his family but with his business, he is a patient, who doesn't hang out in the parking lot afterwards but to move on, the business is a very good business and again he thinks what you will see is he will build the business correctly and it will be a very nice business and he is sure he will do everything in his power to make sure the utilities etc. are addressed accordingly and handled properly.

Melinda Miller states that she has also known Dr. Gilkey for 42 years and have been a patient of his for 25 years and he has made a huge impact as Mr. Claypool was saying, on my family, my mother, my sisters, my brothers, my aunts, my uncles, my nieces, my great-nieces we have all had great care from him and he is an upstanding, active community member. She said he has been involved since he got out of college, he was athletic trainer at Castle High School, he would go to football practices on Saturday and help, he did sports physicals, he organized a sports gala for Castle High School and was a donor in that, he does teacher appreciation chair massages, he is very active in that. She stated Newburgh Summer Fest used to have a 5K, he organized all of that and he is an active member. She added as her husband was saying he is a caring, respectful person who is going to do the right thing. She said he does the right thing and he will make it right and it will be a beautiful facility and hopefully it will be approved so people will get great care like her and will have ample parking.

Jim Morley Jr. said we did want you to hear that there is also support in the community for this project and we felt like that was important. He stated there were several things that were brought up and I think several of them were a little bit the same so I would like to hit on a couple of those. He said there was talk about spot zoning and the truth of it is this was zoned four years ago. He said to use Mr. Murphy's words the "R-O" didn't devalue the property that was there so our "C-1" with the udc (use and development commitment) is the exact same thing that "R-O" was four years ago so if the letters "R-O" don't devalue your property then "C-1" with udc don't devalue it either. He said the uses are exactly the same as they were before. He stated we aren't asking for anything more than what was there four years ago. He said they feel like it is the appropriate use.

Jim Morley Jr. stated there was plenty of talk about drainage and the Commissioners recognize that there are challenges in Old Hickory, the Drainage Board recognizes that but they also recognize that our system would not further those problems and our system from a drainage stand point exceeded as was mentioned by Steve Sherwood, who is a registered engineer on behalf of Warrick County, exceeded Warrick County drainage standards of both in our discharge structure and the amount of water we detain. He said so a drainage stand point we were given unanimous approval.

Jim Morley Jr. said there was a lot of talk about traffic and 15,000 cars a day he agrees that would be bad if you wanted to build a house right there. He stated he wouldn't want 15,000 cars a day running in front of his house and trying to negotiate and trying to come off of SR 261 into my private drive crossing three lanes of traffic. He said 15,000 cars a day is music to the ears of a commercial project. He stated because we are moving the location of the entrance drive we are putting it where it is safe, if we leave it where it is he doesn't think that is a great place. He said Dr. Gilkey has agreed to move it to the intersection which is a much safer place. He said there is a school there and a lot of traffic coming out of the school and this relocated location we are suggesting is the correct place for entrance into that project; however, he will also say there was mentioned that now we will have other turn lanes. He said there is already a left turn lane to go east bound on Vann Rd. so our left turn will work just opposite of that. He said the left turn on to Vann for people going South on 261 to turn left on Vann between the ballfields and the school, that is the controlling leg of that left turn intersection. He added that is what will flip the

light to tell people to turn not the handful of patients that come in and out of Dr. Gilkey's office. He said that lane configuration is already there, the signal heads are already there. He stated we will have to do some rewiring and add a set of heads but this is the place to have an entrance.

Jim Morley Jr. said there was talk about this was not good for being in Old Hickory, this is not in Old Hickory, Old Hickory enters off of Hillsboro Rd. and we enter off of SR 261. He stated you don't drive past the front door of an Old Hickory house to get to this project. He said you drive down 261 past a gas station, a car wash, probably a church along the way, a couple of schools, and there are all kinds of stuff along 261. He said he doesn't think anyone's property values went down because you drove past a commercial structure on a highway. He said you have to drive past a commercial structure to get to your house, it is part of it. He said there was also mention about 260 something in Old Hickory remonstrating against this. He said he counted and there are only five that touch this property, only five of which, only six he looked at it wrong, of the 260 something, actually touch this property and he believes four of the six have a privacy fence already up and around between them and this property. He said the other end that doesn't have that is where our dry basin is which is going to hold development away from that end of the property. He stated the property was zoned unanimously in 2014 to be an "R-O" we are not asking for anything more than we had then, we are asking for a "C-1" with a use and development commitment because Warrick County changed what was allowed in an "R-O". He stated Mr. Gilkey didn't change that, Mr. Gilkey didn't ask for that to be changed, it was changed and he is sure if they asked Mr. Gilkey at the time he would have said wait a minute, wait, time out; he bought that property so he could put a clinic there. He said he came before the Board in 2014 to rezone and it was unanimously recommended. He said per one of the homeowners they felt like it wouldn't damage their values, we are only asking to get back to where we were. He said we aren't looking to put anything that damages values and based on at least one homeowner that represented five or six others the "R-O" that was approved in 2014 doesn't damage their values. He said this "C-1" with use and development commitment is the same thing as an "R-O". He asked Sherri is he correct in that.

Mrs. Rector replied yes, you are correct.

Jim Morley Jr. stated if it didn't damage values in 2014 he has no idea why it damages values in 2018, it is the same product. He said the truth is if it didn't damage them in 2014 it doesn't damage them now. He said we would ask for a favorable recommendation.

The President asked Attorney Doll if he would like to say something.

Attorney Doll responded if you want him to.

The President said sure.

Attorney Doll stated the responsibility of the APC is to evaluate this application based upon the facts that have been presented both supporting and opposing. He said speculation and opinion has been ruled by our Supreme Court to be insufficient to render a decision supporting or opposing a rezoning. He said in fact if you are going to support this you support it based upon

the facts you see with the application and the drawing. He said if you are going to oppose it then you oppose it based upon facts that have been presented to you by the remonstrators. He stated that seems straight forward but in reality it isn't. He stated there has been an allegation that this is spot zoning he would think if that if this property were in the boundaries of Old Hickory Subdivision then that would be a very good argument but this was excluded from the boundaries of Old Hickory, always been excluded from Old Hickory. He said as consequence, historically the courts would frown upon ruling that this is spot zoning because it has been excluded since day one.

Attorney Doll stated there is an argument that it is spot zoning because it would be a commercial use within a residential area but there are plenty of other commercial uses on 261. He said a large governmental use is right across the street from this property on 261 that could be some kin to commercial use. He said the problem with this is in 2014 this piece of property was properly approved without objection and unanimously approved to be rezoned to an "R-O" designation. He said the exact purpose that this application intends to use on this property at the present time was what was recommended at that time and what was permitted in a "R-O". He said nothing that the applicants did changed this, this was a change made in the County Zoning Ordinance for the further development of the Wellness Trail property adjacent to the medical facilities, it wasn't done for this particular piece of property. He said unfortunately this property owner was sort of caught in the middle when the change in designation occurred. He said he agrees that had he been informed of the change in the ordinance he probably would have been here telling us he didn't approve or agree and wanted to be exempted from it which would have been difficult for us to do.

Attorney Doll stated the proposed use as the zoning is described is exactly the same that this Board approved four years ago, we are calling it something different but the limitations are exactly the same. He said there has been remonstrations made about marketability and valuations of surrounding property. He said our Court of Appeals has held that statements about marketability and zoning cases need to be supported by market study analysis, by trained professionals that present reports and documents to support comparative values. He said without that it is opinion and speculation, it needs to have documentation of comparative studies of the values of homes in areas where office buildings are located within close proximity and what effect the office building has had upon the value. He said without those reports that is again speculation and opinion.

Attorney Doll stated there has been arguments about drainage. He said drainage is not within the purview of this Board, drainage is in the purview of the Warrick County Drainage Board and it was decided after a lengthy debate and all kinds of technical explanation of first level detention, second level detention, and pipes with spreaders to develop the water so it doesn't leave the property. He said the water that will leave the property may in fact be less after the development compared to what it is today. He stated at the conclusion the Drainage Board unanimously approved the drainage plans today. He said in fact the detention specifications are twice Warrick County's specifications. He added they are designed to 100-year flood as opposed our fifty year required and there are other duplicative efforts in the detention. He said drainage is dealt with by the Drainage Board and not within the purview.

Attorney Doll stated traffic was brought up but again there is no traffic studies to show how many exact cars will come in here. He said in the totality of 15,000 vehicles a day will there be 100 cars added, will there be 50 cars added but it is all speculation. He stated there is not going to be Schnuck's grocery store cars or Walmart cars added for this property it is going to be very minimal. He said again there is no traffic study so arguments about traffic is again speculation. He said all of us drive on 261 we all know that we have to be careful when we drive by Castle High School. He said there is a lot of traffic there but that is the nature of 261 that is why it is a four lane highway, why the State of Indiana spent millions of dollars upgrading that stretch of highway recently.

He stated for all of those reasons you have to ask yourself is it speculation or have we been provided with supportive facts and opposition that would in fact support denying the request. He said and if you have not been convinced that you have not been given supportive facts then there isn't any other grounds to deny this request to rezone. He said Indiana law statute and court decisions highly favor property rights and the individual's right to use his property whether his neighbors enjoy it or not and he is sure they are going to use their property as they see fit and to deny it could be constituted as a taking. He stated for those reasons you need to judge what you heard accordingly and make your decisions on the application before you.

The President asked for questions from the Board members.

Bill Byers said he has one question but thinks it has already been answered. He asked on the traffic involved in the situation how will traffic be affected, how many customers a day are going to be using these drives. He stated it is a small business, at 15,000 a day are there going to be another 100, is that really a factor.

Jim Morley Jr. replied no, for us to have an entrance off of 261 we have to file for a commercial entrance and as part of the INDOT process we will have to do a what they call a traffic impact study and we have to do a trip generation analysis, and a trip distribution analysis for all the cars that come in and out of this property. He said we will take into account how many cars come in in a day, what the peak hour is at the clinic, what the peak hour is on the roadway in front of it. He said then we submit all of that to the Indiana Department of Transportation and their review staff, which is also made up of registered engineers, reviews that information and they say yes we agree or no we don't agree. He stated for the record he has never had them say, no we don't agree, because we take pride in what we do which is turn in a good product but that is their prerogative. He said any access onto SR 261 has to come through the Indiana Department of Transportation. He stated that is part of it. He stated the transportation study is part of that entrance and relocating that entrance to the intersection, which we feel is the appropriate place, is part of what we are trying to do.

Mr. President said you talked about hours of operation. He asked what are the typical hours of this business operation going to be.

Mr. Gilkey replied Monday and Wednesday from 8:00 a.m. to 8 :00 p.m., Tuesday and Friday from 8:30 a.m. to 6:00 p.m. and Thursday from 8:00 a.m. to noon.

Someone from the audience requested to say something.

Mr. President replied you will need to come up to the podium. He said we don't normally allow this because we can get back into remonstrating.

Glea McBride, 3444 Pine Ridge Dr. asked is this not more than one business, two buildings and more than one business or is the only business that is going in Mr. Gilkey's. He stated he thought it was two buildings and multiple businesses going in there.

Mr. President asked Jim Morley Jr. if this was anything he could address. He added what Attorney Doll stated is that everything was the same, it is similar except it was one business and now he thinks there are two proposed buildings. He said one business of which we know and the other is a question. He said it does have the same guidelines on it.

Jim Morley Jr. said so the land use is the same but the subdivision is different, he will give you that. He said the entrance location is also different, if we weren't doing a subdivision most likely we would use the existing drive at the north end of the project site because it is an existing drive at least that is possibly where...that is the default location because it is an existing INDOT entrance. He said we feel like by creating the subdivision we are able to create the entrance at the intersection. He said Dr. Gilkey doesn't have the desire to sell the second parcel but he has family that are in the medical business also, he has a growing business, there are other types of facilities that go along medical facilities and they wanted to be able to hold out that right. He said there was a statement earlier that this was ten pounds of stuff in a five-pound bag, this is ten pounds of stuff in a twenty-pound bag. He said this is a very low density commercial development. He said most commercial development has a coverage rate pushing ninety percent, this is a fraction of that. He said it is a large piece of property and by doing this we are able to move the entrance to the signalized intersection which he can't imagine anybody would say is a bad idea.

Mr. President stated a question on lighting was brought up. He asked what are the plans for lighting, will they be on 24 hours, are they directional lights, or have you even got that far yet.

Jim Morley Jr. stated we haven't got that far but there is no value in Dr. Gilkey lighting up the backyard of someone else. He said the desire is to have an architectural style that is in keeping with the community, and tall light poles cost more than short light poles so he really doesn't have a reason to put in tall light poles. He said we haven't got that far but he sure doesn't see that there is any reason...why would you light up someone else's neighborhood. He said in this situation the parking would go on the road side and so the buildings would sit closer to the back, there would be no reason to light back there. He said you might have like a porch light or something is there is a door but there are no anticipated parking lot lights in the back. He stated the intention, and it is shown on the plans, is to have the parking lot in front between the building and the highway.

Mr. President stated you mentioned four sides, obviously one is SR 261. He said there is privacy fence up already on the other two sides, the remaining side, is there a plan for that or does the drainage preclude any type of barrier being put there.

Commented [WU1]:

Jim Morley Jr. replied the drainage easement comes all of the way down there so typically we don't put fences in drainage easements so that kind of precludes putting a fence in that area. He said the drainage easement that you see on the plat will hold back any development substantially from that property line and so the drainage easement offers more protection than a fence would.

The President asked for any more questions from the Board members.

There was a lady in the audience wanting to speak. The President said not at this point, he stated further that he thinks we have heard everything we need to hear for us to make a decision.

Ascertaining no other questions from the Board the President called for a motion for the rezoning.

Bill Byers made a motion of approval for PC-R-18-06 with the use and development commitment to the Commissioners.

The motion was seconded by Jeff Willis. Bill Byers, Jeff Willis, Amanda Mosiman, and Guy Gentry voted to approve the motion. Doris Horn voted against the motion. Motion carried.

This will go to the Warrick County Commissioners meeting on May 14, 2018 at 4:00 p.m.

The President called for a motion regarding PP-18-03 and it must be contingent upon the Commissioners final say of approval on the rezoning and the conditions of INDOT on the traffic impact study.

Bill Byers made a motion to accept the plat with the contingency of the approval of the Commissioners on PC-R-18 06 and INDOT on the traffic impact study.

The motion was seconded by Amanda Mosiman. Bill Byers, Jeff Willis, Amanda Mosiman, and Guy Gentry voted to approve the motion. Doris Horn voted against the motion. Motion carried.

#### **OTHER BUSINESS:**

The President called for order so other business could be discussed

Mrs. Rector said looking at the drawing that was submitted of Lot 76 of Lexington Subdivision, when it was originally recorded where it shows St. Clare drive going out to Vanada Rd. Bruce Miller had put that on the plat and was recorded as future roadway. She said it has been built except for the final coat. She stated the bank took over the subdivision and they just replatted the lot. She said they sold Lot 76 not realizing that it was not a county road. She stated the person who purchased the lot has sold it back to the bank who took over the subdivision. She said the

bank has now made it a roadway and are asking that there be no sidewalks between the road and Lot 76 out to Vanada Rd.

The President asked if it was still a private road.

Mrs. Rector replied no this one is public.

The President asked if there is no development on Lot 76 at this time.

Mrs. Rector replied no.

The President asked but there are proposals.

Mrs. Rector stated the last thing she had heard was somebody wants to buy this and split it into two lots and that is all.

Attorney Doll asked if we had sidewalks on the rest of the roads.

The President asked where the Brownstones are.

Mrs. Rector replied over here (pointing to GIS Map).

The President asked are they not next to St. Clare.

Mrs. Rector replied this is Lot 76 right here (point to GIS Map) and you can see the road is already there but it isn't built to county standards. She said the street plans have been approved by Bobby Howard, the County Engineer, they just don't want to have to build sidewalks all the way out to Vanada Rd.

Attorney Doll stated you are saying Vanda Rd. is already there.

Mrs. Rector said you can look and see the road except for the final coat of asphalt, but it wasn't a road. She said they don't want to put sidewalks out there. She stated she didn't know where the buses come and go, she doesn't have a clue.

Attorney Doll asked but does the rest of the subdivision have sidewalks.

Mrs. Rector replied yes.

Attorney Doll said so this would be the only piece that wouldn't.

Mrs. Rector stated she wasn't going to say that because she doesn't know. She thought somebody would be here.

Amanda Mosiman made a motion that we table this until next meeting.

Doris Horn seconded the motion. Continued until May 14, 2018 meeting.

**ATTORNEY BUSINESS:** None

**EXECUTIVE DIRECTOR:** None

Upon a motion by Doris Horn, seconded by Amanda Mosiman and unanimously carried the meeting adjourned at 7:25.

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Guy Gentry, President

ATTEST:

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Sherri Rector, Executive Director